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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,422	05/22/1998	SCOTT CLARE	016325-00221	3984

4095 7590 07/12/2002

VINSON & ELKINS, L.L.P.  
1001 FANNIN STREET  
2300 FIRST CITY TOWER  
HOUSTON, TX 77002-6760

EXAMINER

PEDDER, DENNIS H

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 07/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/083,422

Applicant(s)

Clare et al.

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 10, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 49-62, 64-74, 85-89, 91-94, 96-101, 103-111, 113-116, and 118 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49-60, 93, 94, 96-99, 101, 104-108, 114, 116, and 118-127 is/are allowed.
- 6) ☒ Claim(s) 61, 62, 64-67, 72, 73, 85-89, 91, 92, 100, 103, 109-111, 113, and 11 is/are rejected.
- 7) ☒ Claim(s) 68-71 and 74 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on May 22, 1998 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 67, 85-89, 91-92, 100, 103, 110, 115 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 67, 85 lacks antecedent to "the wheel well".

Claim 86 is incorrectly recited as in order to select a member from a set, the set must contain more than one as is --one of horizontally and vertically--.

"Sports utility vehicle" is an indefinite term. Applicant's comments, which do not define such a term, and the attached web page, which suggests only certain desirable characteristics, also do not define this term are noted. Any vehicle can be used for sport and utility. It is suggested that if applicant desires a definite claim in this regard, that a generic structural limitation be used instead. In this regard as an illustration, is a 1952 Ford Country Squire station wagon not a sport utility vehicle as well as an AMC Pacer? What exactly does applicant intend by such a vague term?

Claim 103 is incorrect. Applicant's comments are noted. However, it is not logical to state that the vehicle has inner panel and exterior hinged side panel and follow that by stating that

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the hinged portion of the exterior panel is located on an inner area of the side panel. If applicant persists in traversing, line and page location as well as figure number and exact structure should be pointed out for support.

### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the storage area less than or equal to the width of the wheel well must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

*Shill*  
*85*  
*29*

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 61, 62, 64, 66, 72, 73, 109, 113 are rejected under 35 U.S.C. 102(b) as being anticipated by Seto.

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Seto shows a vehicle with forward compartment and enclosure for passengers and luggage with contoured side panels and a rear wall and rear door, a storage area 15, horizontally hinged sections 23,24 of the same separation width and cross-sectional contour as the forward compartment.

As to claim 73, Seto shows struts 33a, 28.

As to claim 109, Seto shows walls forward and rearward of the compartment.

As to claim 113, this is common knowledge in the art and moreover is a product by process not given patentable weight in a product claim (MPEP 2113).

### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

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made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 65, 110, 111, 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto.

As to claim 65, another door on the right side of the vehicle of Seto is deemed to be an obvious duplication of parts.

As to claim 110, the vehicle of Seto can be used for sport or utility.

As to claim 111, incorporation of the teachings of Seto into a van body is deemed to be an obvious expedient to one of ordinary skill in order to carry more passengers.

As to claim 113, process steps are not given patentable weight in a product claim.

***Allowable Subject Matter***

8. Claims 49-60, 93-94, 96-99, 101, 104-108, 114, 116, 118-127 are allowed.

9. Claims 68-71, 74 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 85-89, 91-92, would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

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11. Claims 67, 100, 103, 115 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


*Response to Arguments*

12. Applicant's arguments filed 6/10/2002 have been fully considered but they are not persuasive.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pedder whose telephone number is (703)308-2178. Fax amendments to expedite handling should be sent to (703) 305-7687.

DHP

July 11, 2002



Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

7/11/02